

**DRUG COURT AND MENTAL HEALTH COURT  
STATEWIDE COORDINATING COMMITTEE**

**November 16, 2007  
Idaho Supreme Court**

**M I N U T E S**

**Members in Attendance**

Justice Daniel Eismann, Chair  
Kathleen Allyn  
Nick Arambarri  
Marreen Baker Burton  
Burt Butler  
Roger Christensen  
Kipp Dana  
Michael Estess  
Bethany Gadzinski  
Kerry Hong  
Barry Jones  
Hon. Brent Moss  
Joan Nuxoll

Brent Reinke  
Larry Reiner  
Hon. Robert Ryan  
Martha Tanner  
Sara Thomas  
Patti Tobias  
Rita Wickham  
Rep. Richard Wills  
Hon. Ronald Wilper  
Sarah Woodley  
Linda Wright

**Staff**

Norma Jaeger  
Scott Ronan

**Guests In Attendance**

Kevin Kempf  
Donna Hislop  
Amy Holly-Priest  
Dayo Onanubosi

**NEXT MEETING DATE**

**April 4, 2008**

**8:30 - 4:00**

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**IDAHO SUPREME COURT  
LOWER LEVEL  
CONFERENCE ROOM**

**Committee Chair Chief Justice Eismann welcomed committee members and members and guests introduced themselves.**

**The Minutes of April 13, 2007 Meeting were reviewed and approved.**

**Norma Jaeger reviewed actions that have taken place on items from the April 13, 2007 meeting:**

- Preliminary meetings have been held with Judge John Varin, Court Juvenile Justice lead and the Department of Juvenile Corrections. Judge Larry Duff has expressed interest in being a pilot site for a Juvenile Reentry Court. Exploration will continue.

- While no direct court activity has taken place on the issue of reentry courts, largely because the court lacks jurisdiction in parole cases, considerable work has been going on between Idaho Department of Corrections and the parole commission to explore several approaches to achieving successful reentry programs, including ways the problem solving court model might be applied. Director Brent Reinke commented that this is a very critical issue for them as frequent parole violators are a significant part of prison population.
- A statewide uniform assessment has been adopted and much work has gone on to implement this assessment across all public substance abuse systems in the state including a great deal of training and development of models for the flow of people through assessment and into treatment and means of sharing information on assessment results to those who need the information. Sara Thomas from the Appellate Public Defenders office questioned how assessment information will be shared in light of recent court decisions on 5<sup>th</sup> Amendment rights. One key is client signing consents to release information but more work is needed to bring defense bar on board. Director Brent Reinke strongly recommended that the implementation not take place until training in use of the GAIN and the related online data system (WITS) is completed.
- A new District 7 (Lemhi County) Drug Court and the second drug court in the 4<sup>th</sup> District (Ada County) have become operational. These courts were approved in April.
- The Access to Recovery Grant was not funded for a second period. Federal officials personally visited Idaho to bring the news and commend the state for the good work done during the first grant period.
- Courts and executive branch agencies have put a great deal of work into the design and articulation of the substance abuse treatment system that will be managed by an intermediary to be selected by a new request for proposals, due out December 1, 2007. The BPA contract has reached its full term at the end of this fiscal year.

### **New Court Applications**

The Committee reviewed applications submitted by various districts per ICAR 55, for approval to begin planning or initiate operations of new courts as follows:

**Judge Moss moved and Judge Wilper seconded approval of the reactivation of the Idaho County Drug Court with existing allocated resources. Motion carried.**

There was considerable discussion of applications for mental health courts in Latah and Idaho Counties, which included the following considerations:

There are appropriate candidates that without a mental health court will have a felony on their record and perhaps go to prison who could be safely and appropriately be served in the community. It is important to reserve the mental health court for the treatable mental illnesses for which they have been shown to be effective. It is not reasonable to believe that Idaho can afford to treat every seriously mentally ill person in every frontier community, people may have to move to a more populous area. New provisions under I.C. 19-2524 could allow a judge to include drug testing in their order for treatment. Judges certainly can, and have, arranged to have persons on probation continue to appear before them periodically, such as on *Law and Motion Day*, with their treatment provider and probation officer to report on progress, without having a designated mental health court. It was asked if Judge Cook's diversion model might be appropriate if the diversion approach is relevant legally to the particular case. It is being done without having access to Assertive Community Treatment. Private agencies can be trained to deliver the ACT model for those who qualify for Medicaid but it is important to be sure that the treatment provided meets quality standards. A drug court can take and manage mentally ill persons with co-occurring mental and substance use disorders if the mental health treatment can be provided.

**Judge Moss moved and Director Brent Reinke seconded that Latah County and Idaho County be encouraged and commended in their efforts to meet the needs of mentally ill defendants through collaboration among the court and community agencies, including use of the provisions under I.C. 19-2524, and that Supreme Court staff continue to work with them to meet the requirements of a mental health court, but that they cannot be approved as a mental health court, at this time, unless they meet the necessary requirements, including access to Assertive Community Treatment. Motion carried.**

**Linda Wright moved and Bethany Gadzinski seconded approval of the Franklin County application to operate a drug court in Franklin County with existing allocated District 6 resources. Motion carried.**

**Patti Tobias moved and Judge Wilper seconded approval for Ada County to begin planning activities toward a DUI Court in Ada County. Motion carried.** The Office of Highway Safety will offer a grant opportunity for DUI courts in early 2008. In addition, if the requested resources for treatment of misdemeanor cases, including DUI cases, is approved by the Legislature that would support treatment and other costs for such a court. Ada County has been approved for their DUI Court Planning Team to attend a national DUI Court Planning Initiative Training in the spring.

**Judge Wilper moved and Judge Moss seconded approval of the Gem County application to continue planning a drug court with existing allocated District 3 resources. Motion carried.**

**Patti Tobias moved and Barry Jones seconded approval of the Bannock County application to plan a Child Protection Drug Court with resources obtained through a grant for the (federal) Administration on Children and Families. Motion Carried.**

Bethany Gadzinski provided the committee with an abstract of this 5 year grant which would establish two child protection drug courts, develop collaboration between agencies serving such families and the courts, expand a specialized model of family based treatment for families in the child protection system that is currently being provided by Discovery House, a program of the Road to Recovery treatment agency in Pocatello and to evaluate the effectiveness of the model. The grant will serve 65 families per year. The second proposed site would be in the 4<sup>th</sup> Judicial District, Ada County, where continued negotiations are underway. Idaho State University will evaluate the project. Patti Tobias commended Bethany Gadzinski and the Department of Health and Welfare for their efforts to take advantage of this first-time opportunity for such a grant which will not only expand services but give us a real opportunity to evaluate this drug court model in Idaho for the first time.

**Director Brent Reinke moved and Bethany Gadzinski seconded the appointment of Nick Arambarri, Kerry Hong and Joan Nuxoll to an Advisory Committee for the grant. Motion carried.** Barry Jones also offered to serve on this committee. Sara Thomas recommended that Molly Huskey, representing the defense bar, also serve on the committee. Norma Jaeger and Bethany Gadzinski will co-chair the Advisory Committee. Debbie Field commended the work being done at Discovery House, operated by Road to Recovery as a real answer to the issue of “meth moms” legislation.

#### **Mental Health Court Guidelines for Effectiveness and Evaluation**

Judge Moss presented the proposed Mental Health Court Guidelines for Effectiveness and Evaluation. A draft of the Guidelines document was provided to the committee, along with the composition of the workgroup that drafted them. Judge Moss pointed out that it is a good start to the eventual final document. There is more work to be done and a workgroup is continuing to develop these guidelines. The coordinating committee identified areas for further development including: addressing the issue of taking persons who were judged to not be competent to stand trial, clarifying requirements for the

minimum number of court appearances per month, assuring that ACT teams are providing home visits as required in the ACT model, along with providing other detail in the treatment expectations, and addressing needs for probation officers to have cross-training in dealing with mentally ill persons.

**Kathleen Allyn moved and Rich Wills seconded that the Draft Guidelines on Mental Health Court Effectiveness and Evaluation be adopted. Motion carried.**

### **Mental Health Court Utilization**

Norma Jaeger presented the current status of mental health court utilization. Capacity is 225 and current participation is 152. All of the courts are working to admit new and appropriate individuals. Utilization generally follows the tenure of each court, with older courts at or near full utilization.

### **Substance Abuse Treatment for Mental Health Court Participants**

Kathleen Allyn reported that the department is pushing all ACT teams to have a substance abuse specialist as part of the team. She has asked managers to provide information on the degree of accomplishment of this element. She and Bethany Gadzinski reviewed the fiscal impact statement of HB 180 which provided additional treatment resources for felony offenders and the language of the statement references both mental health and drug courts. Patti responded that the intent was for the funds to provide treatment for the felony drug court expansion. Currently some funds from the drug court treatment allocation are being used to support specialized substance abuse treatment for mental health court participants. It is likely that there will always be substance abuse treatment needs beyond that available through the ACT team. Norma Jaeger pointed out that it is critical that when using outside treatment resources that the treatment still be highly integrated. She further indicated that we do not have a problem financially this year since we have yet to reach full utilization of the new drug court slots, but that we will eventually have financial problems meeting the substance abuse treatment needs of the very high percentage of mental health court participants. It is possible to use the provisions of I.C. 19-2524 to order the necessary treatment for felony offenders in mental health courts. Norma Jaeger proposed that this be specifically addressed in further work of the guidelines workgroup, to assure integrated treatment model. It was pointed out that Mental Health Court participants like all mental health clients are not ineligible for community substance abuse treatment resources. Patti Tobias commended the good work that is going on and recommended that further articulation of treatment needs and policies for FY09 be on the agenda for the next coordinating committee meeting. Director Brent Reinke offered that agency in-service training in dealing with mentally ill persons could be explored at IDOC.

### **Progress Report on Pilot Juvenile Mental Health Court**

Judge Michael Kennedy presented the committee with an update of progress in development of the pilot juvenile mental health court in District 7. This court is now operating and adopted the name *Juveniles Making Progress* (JMP). This enables participants to say they are in *JMP* court and not identify it as mental health court. The court will operate in two areas, the Upper Valley counties of Jefferson, Madison and Fremont and in Bonneville County. While similar in certain operational aspects to the Juvenile Drug Court, there are differences. Presently few of the participants have a drug or alcohol problem but must meet the definition of serious emotional disturbance. Very strong emphasis is placed on family engagement, the treatment model depends on “wraparound” services and is very individualized. Age for admission is 12 – 17. Participants enter “voluntarily” but once in cannot opt out. It is a term of probation. Eligibility excludes felony sex offenses or violent offenses in which a person was injured. Eligibility criteria can be waived by a 2/3 vote of the team. Counsel by attorney is provided to youth at every step. The team must take special effort to assure that participants understand the requirements and rules. Sara Thomas recommended looking to the special education regulations and resources. Kathleen Allyn asked if family psycho-education was part of the program. Nick Arambarri asked about use of high risk-focused prevention models to assure participants do not become involved with alcohol or other drugs.

### **Drug Court Implementation**

Kevin Kempf reported on the allocation of new probation officers awarded by the last legislative session. A new probation officer was added to support drug courts in Districts 3, 4, 5 and 7. District 4 also received a new probation officer from the department's allocation of officers for growth. He also reported on the department's efforts to improve the reliability of the LSI administration. A new scoring guide was developed and 3 of 7 districts have been trained. The department has also begun to track data on LSI scoring errors. He has attempted to develop statewide supervision standards but had run into significant problems in reaching a statewide standard. This effort will continue. He described current problems encountered due to the explosive growth in transitional housing and discontent from neighbors. Such housing has grown from 13 houses two years ago to 100 such houses today, with more planned.

Patti Tobias referred to the draft Partnership Agreement and asked what needs to be resolved. Kevin indicated that the primary issue remaining is about caseload size.

**Patti Tobias moved and Linda Wright seconded that the committee adopt the partnership agreement in concept with understanding that the exact caseload size or range would continue to be worked on. Motion carried.** Kevin reported that these guidelines will be useful to him in planning and working with the Governor's Office staff.

### **Ada County Drug Court Treatment Program State Approval**

Marreen Baker Burton reported that the main outstanding issue is obtaining and occupying a building. Several buildings have been look at and finally Ada County has purchase a building that will be ready to occupy in March. Policies and Procedures are nearly complete for state approval.

### **Treatment Funding Expenditures and Proposed Re-allocation**

Norma Jaeger presented current treatment expenditures through October 31, 2007 and a proposal to reallocate treatment dollars. Because districts are not yet at the full capacity appropriated by the Legislature in 2007, there are currently significant unspent treatment funds. In addition, the addition of Ada County Drug Court Treatment program to the state funded budget has not yet taken place. It was proposed to reallocate funds from unspent district allocations to allow a statewide pool to cover residential treatment and safe and sober housing. In addition, each District should be able to use treatment funds for the full range of services allowed by Department of Health and Welfare policy.

**Patti Tobias moved and Director Brent Reinke seconded that treatment funds be reallocated, with proper accounting and allocation of the expenditures in Bingham County, to allow for provision of residential services and safe and sober housing, with case management to be allowed within protocols worked out with the Department of Health and Welfare and with any District being negatively impacted by the reallocation able to request adjustment through the Executive Committee. Motion carried.**

### **Drug Court Guidelines Compliance Survey Results**

Scott Ronan presented results of a survey of the current status of compliance with the Statewide Guidelines for Effectiveness and Evaluation. Compliance is quite strong on most guidelines. Areas for further attention and emphasis were identified in the survey and presented in the written report provided to the committee. In general, areas for further work focus on how the teams plan and coordinate and communicate outside of the regular court staffing setting, separate their low and high risk participants, reassess participants with the LSI, and emphasize rewards over punishments.

**Judge Wilper moved and Director Brent Reinke seconded that a standing Guidelines Committee be formed to periodically review the Guidelines for necessary revisions and to consider recommending selected Guidelines to be adopted as Rules. Motion carried. Volunteers and nominations for this committee include Marreen Baker Burton, Judge Ronald Wilper, Joan Nuxoll, Amy Holly Priest, Molly Huskey, Rita Wickham, Bethany Gadzinski and Henry Attencio,**

#### **Juvenile Drug Court Implementation**

Scott Ronan presented a graph showing the relationship between graduation and unsuccessful terminations for statewide juvenile drug courts. After two years of data showing declining graduation rates, the graduation rates compared to unsuccessful terminations have improved significantly. Kipp Dana pointed out that the data shown do not actually show the percentage of persons entering juvenile drug court that graduate. Scott agreed that this would take an actual survival analysis. Norma Jaeger invited review and comment on the Juvenile Drug Court Guidelines for Effectiveness and Evaluation.

**Patti Tobias moved and Judge Wilper seconded that a standing Guidelines Committee be formed to periodically review the Juvenile Drug Court Guidelines for necessary revisions and to consider recommending selected Guidelines to be adopted as Rules. Motion carried. Volunteers and nominations for this committee include Amy Holly Priest, Judge Varin, Barry Jones, Pharis Stanger, Sharon Harrigfeld, Molly Huskey, Sara Thomas, Judge David Manweiler. It was also recommended that a Juvenile Prosecutor be recruited.**

#### **Invitation to Participate in a National Juvenile Drug Court Graduation**

Norma Jaeger presented an invitation from Dr. Edward Latessa to participate in a national juvenile drug court evaluation he has been funded to conduct.

**Director Brent Reinke moved and Judge Wilper seconded that Idaho participate in the national juvenile drug court evaluation. Motion carried.**

Burt Butler asked if ISTARS will be the data system for juvenile drug courts as indicated in the current guidelines. Norma responded that there was currently an examination underway to determine if IJOS might meet the juvenile drug court data system needs or if ISTARS should be modified and used. This decision will be finalized in the next few weeks.

#### **Reclaiming Futures: A Funding Opportunity**

Norma Jaeger referred the committee to materials describing the Reclaiming Futures Project of the Robert Wood Johnson Foundation. This project is a juvenile justice system improvement and reform project and will be offered to communities to apply to participate in the late winter. The project includes use of the GAIN assessment instrument, adopted in Idaho for statewide implementation. Bethany Gadzinski commented that the Reclaiming Futures model has been adopted in the development of the juvenile justice system flow schematic for the new system RFP as well. Patti Tobias recommended that communication be provided to the Districts as soon as possible to see who might be interested in applying. Director Brent Reinke suggested that perhaps the project might be applied for as a statewide project.

#### **DUI and Misdemeanor Drug Court Expansion Plan:**

##### **DUI Court Strategic Goals**

Norma Jaeger referred the committee to the draft set of succinct DUI court Strategic Goals. With the plans to request additional misdemeanor and DUI court capacity and national interest in expanding availability of DUI courts, it is believed to be timely to adopt goals to guide further development of DUI courts in Idaho.

**Patti Tobias moved and Director Brent Reinke seconded adoption of the DUI Court Strategic Goals. Motion carried.**

**DUI Court Impact Review / Report**

Scott Ronan provided the committee with an overview of a recent data analysis that he conducted, examining outcomes from four Idaho DUI courts: Kootenai, Bannock, Bingham and Bonneville Counties, and using the database compiled for the current felony drug court outcome evaluation. These counties were selected because they had considerable data available on a group of individuals who were found to be eligible and appropriate for DUI court but who did not enter DUI court. The analysis considered characteristics and outcomes of a total of 216 DUI court participants and 200 comparison cases. 77% of the DUI court participants graduated from the DUI courts. The overall DUI court group had a new charge filing rate of 23% compared to the comparison case new charge filing rate of 37%. Graduates of the DUI court had a new charge filing rate of only 18%. In reviewing the available literature on evaluations of DUI courts, this study shows a larger number of cases and a much longer follow-up period than others reviewed, and demonstrates significant and meaningful reductions in recidivism for Idaho DUI courts.

**Misdemeanor and DUI Court Funding Request**

Patti Tobias reported on a planned legislative funding request to fund 275 new misdemeanor and DUI court participants. This request was approved by and incorporated into the consolidated budget request from the Interagency Committee on Substance Abuse.

**Statewide Outcome Evaluation**

Dr. Shelley Johnson Listwan joined the committee meeting by telephone from a national criminal justice conference to update the committee on the status of the statewide felony drug court outcome evaluation. All of the data is collected and is now being analyzed. A full report together with an implementation work session will be held at the Judicial Drug Court and Mental Health Court Institute on January 14, 2008. Preliminary results find that there is a statistically significant difference in recidivism for drug court participants (30%) and particularly for graduates (19%) and the comparison group (37%). There will also be solid differences for participants assessed at different levels of criminogenic risk on the LSI that will guide future program development planning.

**Office of Drug Policy Update**

Debbie Field reported on recent activities of the Office of Drug Policy and the Interagency Committee on Substance Abuse including adoption of a statewide uniform assessment for substance abuse, the GAIN, and the development of an integrated budget request and a statewide strategic plan. Debbie reported that the state is in a much better position to address the challenges of substance abuse than when the work began last spring. There will be a supplemental budget request forwarded for 3.4 million dollars and a FY 2009 budget increase of 12.1 million dollars. Through work and data collected during the ATR project and provided by BPA from their database on treatment system management we have been able to gain a much clearer picture of the real needs in the state. Implementation of the GAIN statewide assessment and the WITS statewide data system are major accomplishments and Idaho is the only state to have developed such a statewide assessment system. This system will not only provide sound clinical assessment but collect valuable statewide data on the population in need of treatment. It is imperative to further develop this community-based treatment system if we are to have any chance to delay or avoid the building of two new prisons in Idaho for nearly 6000 inmates. Chair Chief Justice Eismann commended Debbie Field for her leadership of the Office of Drug Policy, citing her commitment, enthusiasm and determination to the work of this office, statewide.

## Other Business and Announcements

- **Annual Report to Governor and Legislature** – Norma Jaeger asked committee members to review the draft of the annual report and provide feedback and suggestions by December 10, 2007.
- **Judicial Drug Court and Mental Health Court Institute will be held January 14–15, 2008** - The Agenda for the Institute was presented and plans for registration and financial support was distributed.
- **Supreme Court Decision In STATE OF IDAHO v. PAUL LAWRENCE ROGERS** - The Idaho Supreme Court recently ruled in the Rogers case concluding that . . . “because Rogers was required to plead guilty in order to enter ACDC [Ada County Drug Court] he had a liberty interest in remaining in that diversionary program. We also hold that Rogers was entitled to the due process rights announced in **Morrissey** prior to his termination from ACDC.” The complete text was included in the meeting materials packet. Chief Justice Eismann, Judge Wilper, Molly Huskey and a prosecutor representative will develop forms to be used statewide to implement this decision to be distributed to drug courts and mental health courts in writing and in a workshop at the Institute in January. In addition to forms to address the Rogers decision, forms will be provided to address the issue of ex-parte communications.
- **Mandatory Use of AA/NA** - Norma Jaeger provided a draft guideline to be incorporated into the Statewide Guidelines regarding the use of AA/NA and similar 12-Step groups. Persons asserting a right to non participation due to religious objections need to be provided with an alternative. It is up to the participant to make their religious objection known to the court.
- **Expungement of Criminal Records in Drug Court** - Research by Michael Henderson was provided to the committee and will be included in the Statewide Guidelines indicating that drug court judges have no ability to order *expungement* of criminal records in drug court cases.

The meeting adjourned at 3:45.

**Next Meetings: Friday, April 4, 2008 and Friday, November 21, 2008 (proposed)**

## **ACTION ITEMS**

Work with District 2 to assist in developing resources and approaches to respond to the needs of mentally ill defendants in the courts until such time as adequate resources are available to fully implement mental health courts in Idaho and Latah Counties

Forward names of Nick Arambarri, Kerry Hong and Joan Nuxoll together with the names of Molly Huskey and Barry Jones for the advisory committee to the new child protection court grant project



Continue development of Statewide Guidelines for Effectiveness and Evaluation for Mental Health Courts

Work with the Department of Corrections to identify training needs and resources for probation officers supervising participants in mental health courts and incorporate into the supervision standards agreement in process

Continue exploration of funding needs and resources to provide treatment for persons with co-occurring substance use disorders in addition to mental disorders who are in mental health courts

Explore prevention strategies for participants who are at risk of developing substance use disorders who are in the pilot juvenile mental health court

Complete the IDOC Drug Court partnership agreement and the supervision standards elements included within it

Continue to monitor progress of Ada County efforts to become a state approved treatment program and begin accessing state treatment funds

Expand the scope of allowable reimbursable drug court treatment services to include residential treatment, with state coordinator approval, and recovery support services

Work with BPA to develop a means of monitoring District 7 Region VI reporting of expenditures for treatment to Bingham County participants

Monitor continuing expenditures of treatment funds and make necessary reallocations among Districts as are needed within the approved allocation parameters

Reconvene the Statewide Drug Court Guidelines workgroup and identify needed revisions and which provisions may be appropriate for designation as court rules

Reconvene the Statewide Drug Court Juvenile Guidelines workgroup and identify needed revisions and which provisions may be appropriate for designation as court rules

Communicate with Dr. Edward Latessa Idaho's willingness to participate in the national juvenile drug court evaluation project under his leadership

Advise Juvenile Drug Courts of decision on data system to be required for juvenile drug court data collection

Develop implementation plan for DUI Court Strategic Goals adopted by the coordinating committee

Monitor the availability of grant funding from the Robert Wood Johnson Foundation and consider submitting a statewide application for the Reclaiming Futures Project

Hold outcome evaluation session at the January Judicial Drug Court and Mental Health Court Institute to plan responses to the evaluation's findings and recommendations for improvements

**April Agenda Items (Preliminary)**

Statewide Drug Testing System

Review Expenditures of FY2008 funds and Allocation of FY2009 Funding

Legislative Report

Adult Drug Court Guidelines and Proposed Rules

Juvenile Drug Court Guidelines and Proposed Rules

Child Protection Courts – Progress Update

Mental Health Courts – Progress Update

Bonneville Misdemeanor Diversion Court - Update